

1 S.145

2 Introduced by Senator Perchlik

3 Referred to Committee on

4 Date:

5 Subject: Crimes; racial profiling; Human Rights Commission; community  
6 justice centers

7 Statement of purpose of bill as introduced: This bill proposes to 1) prohibit  
8 racial profiling; 2) redefine the operational structure and process of the Human  
9 Rights Commission; and 3) require the community justice centers to provide  
10 education regarding the Human Rights Commission complaint process.

11 An act relating to addressing racial bias

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 13 V.S.A. § 1455a is added to read:

14 § 1455a. RACIAL PROFILING PROHIBITED

15 (a) As used in this section, “racial profiling” means:

16 (1) the disparate treatment of any person solely on the basis of perceived  
17 race or ethnic origin by a law enforcement officer acting in an official  
18 capacity; or

1           (2) a law enforcement officer forming a basis of probable cause to  
2           detain, arrest, or cite an individual or conduct an investigatory stop of a motor  
3           vehicle solely on the basis of the individual's perceived race or ethnicity.

4           (b) No law enforcement officer as defined in 23 V.S.A. § 4(11) shall  
5           engage in racial profiling.

6           (c) A law enforcement officer who violates subsection (b) of this section  
7           shall be imprisoned not more than three years or fined not more than  
8           \$10,000.00, or both.

9           Sec. 2. 13 V.S.A. § 1457 is amended to read:

10          § 1457. CIVIL LIABILITY AND ENFORCEMENT

11           Independent of any criminal prosecution or the result thereof, any person  
12           suffering damage, loss, or injury as a result of conduct prohibited by  
13           section 1455, 1455a, or 1456 of this title may bring an action for injunctive  
14           relief, compensatory and punitive damages, costs and reasonable attorney's  
15           fees, and other appropriate relief against any person who engaged in such  
16           conduct.

17          Sec. 3. 9 V.S.A. § 4551 is amended to read:

18          § 4551. HUMAN RIGHTS COMMISSION; MEMBERS; COMPENSATION

19           (a) The Human Rights Commission is hereby established. It shall consist  
20           of five members, ~~to be appointed by the Governor, with the advice and consent~~  
21           ~~of the Senate, who shall designate one member to be its Chair. No~~ not more

1 than three ~~members of which~~ shall be of the same political party. ~~At least one~~  
2 ~~member shall be of a racial minority.~~ The members shall be drawn from  
3 diverse backgrounds to represent the interests of communities of color, the  
4 lesbian, gay, bisexual, and transgender community, and the disabled  
5 community, and shall have experience working to implement social justice  
6 reform. Members shall be appointed as follows:

7 (1) two members to be appointed by the Governor, with the advice and  
8 consent of the Senate;

9 (2) one member to be appointed by the Committee on Committees; and

10 (3) two members to be appointed by the Speaker of the House, who  
11 shall designate one member to be its chair.

12 \* \* \*

13 Sec. 4. HUMAN RIGHTS COMMISSION MEMBERSHIP; TRANSITION  
14 PROVISION

15 As terms of currently serving members of the Human Rights Commission  
16 expire, appointments of successors shall be in accord with the provisions of  
17 this section. The first expired term or vacated membership shall be replaced  
18 with an appointment by the Speaker of the House; the second expired term or  
19 vacated membership shall be replaced with an appointment by the Committee  
20 on Committees; the third expired term shall be replaced with an appointment  
21 by the Governor, with the advice and consent of the Senate; the fourth expired

1 term or vacated membership shall be replaced with an appointment by the  
2 Speaker of the House; and the fifth expired term or vacated membership shall  
3 be replaced with an appointment by the Governor, with the advice and consent  
4 of the Senate.

5 Sec. 5. 9 V.S.A. § 4552 is amended to read:

6 § 4552. DUTIES; JURISDICTION

7 (a) The Commission shall endeavor through public education to increase  
8 awareness of the importance of full civil and human rights for each inhabitant  
9 of this State. The Commission shall also examine and evaluate generally the  
10 effectiveness of this chapter as well as the existence of practices of  
11 discrimination ~~which~~ that detract from the enjoyment of full civil and human  
12 rights and shall recommend measures designed to protect those rights.

13 (b)(1) The Commission shall have jurisdiction to investigate and enforce  
14 complaints of unlawful discrimination in violation of chapter 139 of this title;  
15 and discrimination in public accommodations and in the rental and sale of real  
16 estate. The Commission shall also have jurisdiction when the party  
17 complained against is a State agency in matters for which the Attorney General  
18 would otherwise have jurisdiction under subsection (c) of this section.

19 (2) In any case relating to unlawful discrimination or sexual harassment  
20 in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction  
21 over pursuant to this subsection, it shall include a statement setting forth the

1 prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any  
2 formal complaint that is sent to a respondent.

3 (c) All complaints of unlawful discrimination in violation of 21 V.S.A.  
4 §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions  
5 for workers' compensation discrimination, respectively, and of 21 V.S.A.  
6 § 471 et seq. shall be referred to the Attorney General's office for investigation  
7 and enforcement.

8 (d) The Commission shall maintain a separation of roles of litigators and  
9 investigators to avoid inadvertent sharing of confidential information.

10 Sec. 6. 9 V.S.A. § 4554(c) is amended to read:

11 ~~(c) Upon receipt of such complaint under subsection (a) or (b) of this~~  
12 ~~section, the Commission or its designated representative shall make every~~  
13 ~~reasonable effort to resolve the matter by informal means prior to a~~  
14 ~~determination whether there are reasonable grounds to believe that unlawful~~  
15 ~~discrimination has occurred. The Commission or its designated representative~~  
16 ~~shall conduct such preliminary investigation as it deems necessary to~~  
17 ~~determine whether there are reasonable grounds to believe that unlawful~~  
18 ~~discrimination has occurred. In conducting an investigation, the Commission~~  
19 ~~or its designated representative shall have access at all reasonable times to~~  
20 ~~premises, records, documents, individuals, and other evidence or possible~~  
21 ~~sources of evidence and may examine, record, and copy those materials and~~

1 ~~take and record the testimony or statements of such persons as are reasonably~~  
2 ~~necessary. The Commission shall make every reasonable effort to interview~~  
3 ~~each relevant and noncumulative witness identified by a party. If a witness is~~  
4 ~~interviewed, a summary of the witness statement shall be included in any~~  
5 ~~report prepared in connection with the complaint. Such statement shall be~~  
6 ~~taken into consideration in determining whether or not there are reasonable~~  
7 ~~grounds to believe that unlawful discrimination has occurred. [Repealed.]~~

8 Sec. 7. 24 V.S.A. § 1965 is amended to read:

9 § 1965. DUTIES OF THE COMMUNITY JUSTICE CENTERS

10 Each community justice center:

11 (1) shall work in close coordination with State agencies, law  
12 enforcement agencies, State's Attorneys, social service providers, victim  
13 advocacy organizations, and other community resources in administering the  
14 programs defined in subdivision 1964(a)(3) of this title;

15 (2) shall, in collaboration with State and local agencies, provide training  
16 on the restorative justice process to citizen volunteers to enable their  
17 participation in the local community justice center;

18 (3) may address quality of life issues in the community it serves by  
19 providing informational and educational resources to the community; ~~and~~

20 (4) may apply for funding from private foundations, other governmental  
21 sources, or other sources;

1           (5) shall provide information and assistance regarding the Human Rights  
2           Commission complaint process, including how to file a complaint with the  
3           Commission and assistance in complaint preparation;

4           (6) shall collect data regarding the number of complaints each local  
5           community justice center refers to the Human Rights Commission; and

6           (7) shall provide community education and outreach on the jurisdiction  
7           of the Human Rights Commission.

8           Sec. 8. EFFECTIVE DATE

9           This act shall take effect on passage.